TO AMEND THE MILITARY PERSONNEL AND CIVILIAN EMPLOYEES' CLAIMS ACT OF 1964

HEARING

BEFORE THE

SUBCOMMITTEE ON AGENCY ADMINISTRATION

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

FIRST SESSION

ON

S. 1460 and S. 1739

BILLS TO AMEND THE MILITARY PERSONNEL AND CIVILIAN EMPLOYEES' CLAIMS ACT OF 1964 TO INCREASE FROM $15,000 TO $25,000 THE MAXIMUM AMOUNT THAT THE HEADS OF CERTAIN AGENCIES AND THE UNITED STATES MAY PAY IN SETTLEMENT OF A CLAIM UNDER THAT ACT

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MILITARY PERSONNEL AND CIVILIAN EMPLOYEES' CLAIMS ACT OF 1964

MONDAY, OCTOBER 19, 1981

U.S. SENATE,
SUBCOMMITTEE ON AGENCY ADMINISTRATION,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to call, at 9:30 a.m., in room 357, Russell Senate Office Building, Hon. Charles E. Grassley (chairman of the subcommittee) presiding.

Staff present: John Maxwell, staff director and chief counsel, and Lynda Nersesian, counsel.

OPENING STATEMENT OF CHAIRMAN CHARLES E. GRASSLEY

Senator GRASSLEY. I'll call the Committee on the Judiciary Subcommittee on Agency Administration to order. We are here today to consider amending the Military Personnel and Civilian Employees' Claims Act of 1964, specifically, whether or not to increase the limit on payment for damages to or loss of personal property incident to service.

The proposed legislation would raise the present limitation on payment for claims under the act to a level consistent with rising costs of repair and replacement of personal property. Specifically, these bills would raise the present limit from $15,000 up to $25,000.

Raising the limit to $25,000 would serve to maintain the level of protection that was previously considered appropriate by the Congress for the type of property covered by the act as a matter of fairness and support for our armed services.

As to the armed services, this protection serves as a further inducement for entering and serving in the military. This bill will remedy what I consider to be a problem that potentially affects the morale of every service person. We have addressed the problem of military salary scales in this session of the Congress and have opted to give salary increases to our members of the armed services. We cannot expect the pay increase that the service personnel have finally been given to go into an insurance policy, but at a time when fiscal conservation is on our minds, it is necessary to consider whether private enterprise could substitute for public outlays of funds.

[A copy of bills S. 1460 and S. 1739 follow:]

II

97TH CONGRESS
1ST SESSION

S. 1460

To amend the Military Personnel and Civilian Employees' Claims Act of 1964 to increase from $15,000 to $25,000 the maximum amount that the heads of certain agencies may pay in settlement under such Act.

IN THE SENATE OF THE UNITED STATES

JULY 10 (legislative day, JULY 8), 1981

Mr. LAXALT introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

A BILL

To amend the Military Personnel and Civilian Employees' Claims Act of 1964 to increase from $15,000 to $25,000 the maximum amount that the heads of certain agencies may pay in settlement under such Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Military Personnel and Civilian Employees' Claims Act of 1964 (78 Stat. 767, as amended; 31 U.S.C. 241) is amended—

(1) by striking out "$15,000" in subsection (a)(1) of such section and inserting in lieu thereof "$25,000"; and

(2) by striking out "$15,000" in subsection (b)(1) of such section and inserting in lieu thereof "$25,000".

SEC. 2. The amendments made by this Act shall apply only to claims arising on or after the date of enactment of this Act.

II

97TH CONGRESS
1ST SESSION

S. 1739

To amend the Military Personnel and Civilian Employees' Claims Act of 1964 to increase from $15,000 to $25,000 the maximum amount that the United States may pay in settlement of a claim under that Act.

IN THE SENATE OF THE UNITED STATES

OCTOBER 15 (legislative day, OCTOBER 14), 1981

Mr. GRASSLEY introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

A BILL

To amend the Military Personnel and Civilian Employees' Claims Act of 1964 to increase from $15,000 to $25,000 the maximum amount that the United States may pay in settlement of a claim under that Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds—

(1) that the United States should provide an appropriate level of protection to military personnel and civilian employees of the United States from loss,

damage, or destruction of their personal property incident to their Federal service;

(2) that in 1974 the Congress, when it amended the Military Personnel and Civilian Employees' Claims Act of 1964, determined that because of inflation, as reflected in the Consumer Price Index, the proper maximum level of protection from the catastrophic loss, damage, or destruction of personal property incident to service should be raised from $10,000 to $15,000;

(3) that because of increased repair and replacement costs resulting from general inflationary factors, the $15,000 maximum level of protection found proper in 1974 no longer affords an adequate level of protection to military personnel and civilian employees from such catastrophic losses;

(4) that the Consumer Price Index (United States city average) has increased from 153.0 in October 1974 to 276.5 in August 1981 (an 80.7 per centum increase), thus requiring $27,105 today to match the October 1974 purchasing power of $15,000;

(5) that an inadequate level of protection from such catastrophic losses has a detrimental effect on the morale of all military personnel and civilian employees, whether they are the victims of such losses or are

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merely aware that such losses are occurring to their fellow employees and military personnel;

(6) that catastrophic losses which are inadequately compensated cause unnecessary suffering and hardship for the personnel and families who experience them; and

(7) that an appropriate increase in the level of protection is needed as a matter of fairness to all Government employees and is particularly needed as a part of congressional efforts to improve retention and morale in the Armed Forces.

Therefore, Congress declares that the maximum level of protection from the loss, damage, or destruction of personal property incident to the service of military personnel and civilian employees of the United States should be increased from $15,000 to at least $25,000.

SEC. 2. Sections 3(a)(1) and 3(b)(1) of the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 241 (a)(1) and (b)(1)) are each amended by striking out "$15,000" and inserting in lieu thereof "$25,000".

SEC. 3. (a) The amendments made by this Act shall apply only to claims arising on or after the date of enactment.

(b) Notwithstanding subsection (a) of this section and section 4 of the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 242), a claim previously set-

tled in the amount of $15,000 solely by reason of the maximum limitations established by section 3 of such Act, may be reconsidered and settled under that section, as amended by section 2 of this Act, upon written request of the claimant made within one year from the date of enactment of this Act.

Senator GRASSLEY. I hope that our distinguished witness, representing the Department of Defense, General Bruton, will give us some insight into whether private insurance is indeed a solution to the problem of insurance coverage for our armed services.

In addition to General Bruton, I understand that we have Rear Adm. Edwin Daniels from the Coast Guard and Mr. Thomas M. Tracy from the State Department with us today. Gentlemen, I am anxious to hear your testimony. As for our first witness, I understand, General, that you are representing the Department of Defense.

General BRUTON. Yes, sir.

Senator GRASSLEY. You are presently the Judge Advocate General for the U.S. Air Force here in Washington. Your military decorations include Legion of Merit, Bronze Star Medal, Meritorious Service Medal, and Air Force Commendation Medal.

I see from your biography that you have been stationed in Alabama, New Jersey, Michigan, Colorado, Illinois, Nebraska, Massachusetts, Germany, Libya, and Vietnam.

Accompanying you today are Captain Eoff, Navy Chief of Claims; Colonel Mounts, Chief of Army Claims; Col. Ray Semeta, Chief of Air Force Claims; and Major Lister, Chief of Claims with the Marine Corps.

I should tell you, General, that your statement will be placed in the record in its complete text, if that's what you desire, and if you would like to summarize that statement, that would be fine.

STATEMENT OF MAJ. GEN. THOMAS B. BRUTON, JUDGE ADVOCATE GENERAL, U.S. AIR FORCE, ACCOMPANIED BY CAPT. A. W. EOFF II, USN, CHIEF, NAVY CLAIMS; COL. JAMES A. MOUNTS, JR., USA, COMMANDER, ARMY CLAIMS; COL. RAMUTIS R. SEMETA, USAF, CHIEF, AIR FORCE CLAIMS AND TORT LITIGATION; AND MAJ. DENNIS L. LISTER, USMC, CHIEF, MARINE CORPS CLAIMS, OFFICE OF JUDGE ADVOCATE GENERAL

General BRUTON. Yes; I would like to submit my prepared statement for the record, and I will summarize my remarks.

Sir, I have a summary. I appreciate and thank you for the opportunity to appear before you to present the views of the Department of Defense in support of the proposed legislation, S. 1739, which would raise the maximum under the Military Personnel and Civilian Employees' Claims Act from $15,000 to $25,000.

We believe the increase from $15,000 to at least $25,000 is absolutely necessary to maintain an adequate level of protection for our people. We have a problem. We need a solution.

Several options appear available, namely, first, increase the act's ceiling to at least $25,000, second, require supplemental individual insurance coverage, third, leave it up to each not fully compensated claimant to seek private relief legislation.

Under several reliable measurements, the proposed increase to $25,000 is fair and reasonable. This increase is needed to keep up with the rising cost of replacement and repair of personal property, which is lost or damaged incident to service. The enactment of the proposed legislation would eliminate the inequities to personnel

who suffer the loss of all or most of their personal property without fault or neglect on their part.

Now, one possibility is private insurance. Military personnel and civilian employees could, of course, purchase insurance policies to cover losses and damage to household goods occasioned by a move required by the Government. The Air Force has looked into the availability and cost of such policies and found that commercial insurance is not an acceptable option because, first, transit commercial coverage is generally not available, and, second, when it is, the coverage is inadequate and the cost is high.

In our opinion it's unreasonable to require Government personnel to assume an obligation to obtain private insurance at their own expense to cover losses of property incident to their Federal service. Moreover, the Government can provide this increased protection at a very low cost in comparison to the total premium cost to our people for insurance coverage.

Another problem with private insurance is slow processing in the payment of claims. Prompt, fair, and efficient claim services are indispensable to our people, especially our lower grade enlisted personnel who are often short of cash. The Air Force alone has 137 claims offices all over the globe. We in the military services believe we have established a record of responsible and prompt administration of claims.

Private relief bills, as you know better than I, are not often favorably considered. Among the reasons is that legislation, such legislation, is preferential and therefore inherently unfair, and additionally, section 4 of the Military Personnel and Civilian Employees' Claims Act provides that the settlement—I should quote, "The settlement of a claim under this Act is final and conclusive," end quote. Thus, private relief legislation is contrary to the philosophy of the act.

Over the years, Congress has recognized the need to maintain a relatively constant level of protection by periodically raising the maximum payable under the act from $6,500 to $10,000 in 1964 and from $10,000 to $15,000 in 1974, to accommodate inflation.

The proposed bill now before you is another example of your continued concern for the welfare of those in government service.

Now, raising the limit to at least $25,000 would only maintain a level of protection previously considered appropriate by the Congress for the type of property covered by the Military Personnel and Civilian Employees' Claims Act. With respect to the philosophy of the act, nothing has changed since the last increase in payment ceilings 7 years ago.

The House Judiciary Committee report at the time of the 1974 increase states that the increase would:

> Serve to maintain the level of protection that was previously considered appropriate for this property by Congress as a matter of fairness and support for morale of government personnel. As to the Armed Forces, such protection would be a further inducement for entering and continuing membership in the Armed Forces.

To require Defense Department personnel to risk losses of their property incident to their service without adequate protection is clearly inequitable. We believe the solution is the amendment of the act to increase the ceiling from $15,000 to at least $25,000. Thus, the Department of Defense strongly supports S. 1739.

Since submitting my prepared statement to you last week, we have been advised by the Office of Management and Budget that they have approved the Department of Defense proposed legislation which also provides for an increase from $15,000 to $25,000. Copies of the letter transmitting that proposal to the President of the Senate have been provided the subcommittee staff.

[The letter referred to above, submitted by General Bruton, follows:]

DEPARTMENT OF THE AIR FORCE
WASHINGTON, D.C. 20330

OFFICE OF THE SECRETARY

October 16, 1981

Honorable George Bush
President of the United States Senate
Washington, D. C. 20510

Dear Mr. President:

There is forwarded herewith a draft of legislation, "To amend the Military Personnel and Civilian Employees' Claims Act of 1964 to increase the limit on payments for damage to, or loss of, personal property incident to service."

The proposed legislation is part of the Department of Defense Legislative Program for the 97th Congress. The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this proposal for the consideration of the Congress. The Department of the Air Force has been designated the representative of the Department of Defense for this proposed legislation. The Department of the Air Force, on behalf of the Department of Defense, recommends that this proposed legislation be enacted by the Congress.

Purpose of the Legislation

The purpose of the proposed legislation is to amend section 3 of the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 241) (hereinafter "the Act") to increase the limit on payments from $15,000 to $25,000 for loss of, or damage to personal property incident to service.

The proposed legislation would raise the present limitations on payment for claims under the Act to a level consistent with rising costs of repair and replacement of personal property. These increased costs are due primarily to the general inflationary trend that has occurred over the last several years.

A reliable method of calculating the increasing costs of repair and replacement of personal property is to make reference to the Consumer Price Index (CPI). In May 1964, when the payment limit under the Act was $10,000, the CPI, according to the United States Bureau of Labor Statistics, was 92.7. In October 1974, when the payment limit under the Act was increased to $15,000 the CPI was 153.0. In January 1981, the CPI-U (Consumer Price Index for all Urban Consumers) was 260.5, a 70.3 percent increase since October 1974. The payment limit of $15,000 in January 1981 is equivalent to $8,810 in October 1974 purchasing power. An increase in the payment limit to $25,539 would be needed to match the October 1974 purchasing power of $15,000 in January 1981.

During the 96th Congress, when the Subcommittee on Administrative Law and Governmental Relations of the House Committee on the Judiciary held hearings on H.R. 6086 and H.R. 6099, bills which were concerned with the payment limits of the Act, several questions were raised about whether military and civilian personnel should purchase insurance to adequately protect themselves from damage or loss to their personal property incident to their Government service. Since that time, the Air Force has done considerable study regarding the availability and costs of such insurance.

Two major companies, which insure military personnel almost exclusively, will provide coverage only for lost or destroyed property. That is, they will not cover damage. Two other companies will write an "all risks" policy, but the quoted premiums for "all risks in transit" policies ranged from $500 to $750 for $25,000 coverage. The military member or civilian employee would, of course, be required to purchase insurance and pay such premiums each time he was reassigned and his personal property was shipped. The policies covering loss but not damage are clearly inadequate as substantial claims often arise from "damages," such as flood and resulting mildew, rodent infestation, and moving van accidents. Yet, the premiums of $500-$750 for "all risks" coverage are more than most anyone is willing to pay. For enlisted personnel and junior officers, these premiums are more than most are able to pay.

One insurance company has made a $15,000 deductible policy available to Army and Air Force Exchange Service (AAFES) personnel as a pilot program. This program extends to approximately 400 moves a year. Under this pilot program, the premiums for $25,000 coverage (with $15,000 deductible) is $34 for each move in the United States and $50 for each move overseas, when coverage is based on cash value or depreciated value. If coverage is based on replacement value, the premiums are $96.50 for each move in the United States and $112.50 for each move overseas. Based upon the assumptions that this pilot program were to be made permanent and that the program were to be made available by the insurer at the same rates to all military personnel, it is possible to project the cost of such a program to Air Force members. In Fiscal Year (FY) 1980, 315,000 permanent change of station moves occurred in the Air Force. Based on the premiums presently charged under the pilot AAFES program, if all 315,000 moves had been privately insured for the full $25,000 coverage, the total cost to Air Force members subject to permanent change of station moves in FY 1980 would have exceeded $15 million.

Realistically, this full cost would not have been incurred because not all of these moves would have involved property valued in excess of $15,000, and consequently insurance would not have been purchased in all cases. It is not possible to establish with any certainty the number of moves that did involve property valued at more than $15,000. However, of the 315,000 moves, about 50,000 involved married personnel on overseas assignment and about 60,000 involved married personnel moving in the United States. Considering only these moves by married personnel (thus excluding all moves by single members), and assuming that each of the married personnel insured their goods for $25,000, the total cost of this private insurance would have been almost $4.5 million. In contrast to this, during FY 1980 only 16 personnel claims submitted in the Air Force were adjudicated in excess of the present limit of $15,000. If the statutory limit had been $25,000, the additional cost of compensating these claimants would have been $72,647.

It could well be argued that even the estimated cost of $4.5 million for Air Force personnel is exaggerated since many of the married personnel would not purchase additional insurance. Unfortunately, this argument may be correct; however, the argument is also a reflection of the basic problem with requiring private insurance as the source of protection from loss or damage incident to federal service. The chances that any one person will have a catastrophic loss are so small that it is probable that a high percentage of military personnel, especially enlisted and junior officer personnel, would take the gamble that they would not suffer such a loss and thus would not purchase the insurance.

When the tremendous difference in total premium cost just for Air Force personnel ($4.5 million) is compared to the cost to the Government to serve as insurer at the $25,000 level proposed by this legislation just for Air Force personnel ($72,647), it becomes clear that the Government can provide a tremendously important benefit at very low cost. Although the cost to the Government would certainly increase as inflation brings more claims into the over $15,000 category, the estimated cost for all of the Department of Defense for FY 1981 is only $300,000, and it is estimated that this would increase over a five year period to an annual DOD-wide cost of only $480,000.

Although these projected Government costs are not large, the value to military personnel is enormous and could mean the difference between the bothersome problem of having to repair or replace personal property and the devastating, uncompensated loss of such property. Now, as in 1974, the assurance that military and civilian personnel will not face such a tragic loss without compensation from the Government should not be lost to the effects of inflation. Private insurance is not a viable alternative to statutory claims protection at the $25,000 level.

Raising the limit to $25,000 would serve to maintain the level of protection that was previously considered appropriate by the Congress for the type of property covered by the Act. With respect to the philosophy of the Act, nothing has changed since the last increase in the payment ceiling seven years ago. The House Judiciary Committee Report at the time of the 1974 increase (House Report 93-1320, August 22, 1974, page 3) states that the increase would "serve to maintain the level of protection that was previously considered appropriate for this property by Congress as a matter of fairness, support for morale, of Government personnel. As to the Armed Forces such protection would be a further inducement for entering and continuing membership in the Armed Forces."

Cost and Budget Data

Based on past experience, it is estimated that passage of the proposed legislation would result in added costs to the Department of Defense of between $300,000 and $480,000 annually over the next five fiscal years, or a cumulative total of approximately $1.95 million for that period.

Sincerely,

E. C. Aldridge, Jr.
Acting Secretary of the
Air Force

Attachment

A B I L L

To amend the Military Personnel and Civilian Employees' Claims Act of 1964 to increase from $15,000 to $25,000 the maximum amount that the United States may pay in settlement of a claim under that Act.

Be it enacted that the Senate and House of Representatives of the United States of America in Congress assembled, That (a) sections 3(a)(1) and 3(b)(1) of the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 241(a)(1) and (b)(1)), are amended by striking out"$15,000" and inserting in lieu thereof "$25,000".

(b) The amendments made by this Act shall apply only to claims arising on or after the date of enactment.

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General BRUTON. In reviewing S. 1739, we note that it differs in one respect from the Department of Defense proposal. Section 3(B) provides for a form of retroactivity in that claims previously settled for $15,000 solely because of the $15,000 statutory limit could be reconsidered and settled upon the claimant's request within 1 year from the date of enactment, up to the new $25,000 limit.

I would like to defer comment on that provision since we have not had the opportunity to address the issue within the Department of Defense or with the Office of Management and Budget.

This concludes my summary, sir. I am prepared to answer your questions.

Senator GRASSLEY. I think, General, that we're prepared to remove that section of the bill that deals with retroactivity, so unless you desire to make a statement on that later on for the record, that won't be necessary, assuming that the committee agrees to the removal.

Do any of the people accompanying you desire to make statements? If they don't, then I have some questions I want to ask.

General Bruton, could you tell me from start to finish how a claim progresses and, hypothetically, let's say I lost everything I owned because the boat transferring all my possessions sank en route between here and Timbuktu. What would I do next?

General BRUTON. The first thing you would do is immediately contact the nearest claims office for claims forms, instructions, etc., and then if your loss caused a particular hardship, then you could request an emergency payment. Such payment is processed with minimal documentation and often is paid the same day.

Then you use a pickup inventory prepared by the mover to move your property and list the missing property. Other information, such as dates of purchase and your purchase price, replacement costs, are required, and replacement costs over $100 must be substantiated with written estimates from local stores or catalogs.

Then the claimant or you would submit the claims form with the supporting documents to the claims officer, either in person or by mail. Then the claims personnel in the claims office would adjudicate the claim in accordance with the uniform allowance list and the depreciation guide which all services use.

The claims officer reviews the file and then the base staff judge advocate would approve it for payment within his settlement authority. If it's not within his settlement authority, which is claims between $5,000 and $7,500, depending on the circumstances, if it's more than that, he forwards the claim to a higher authority, which in the Air Force is to Headquarters, Air Force. Assuming it's approved at that level, then a voucher is prepared and sent to the accounting and finance office for payment. A letter also is sent to the claimant explaining the settlement or the way the claim was adjudicated.

At the same time, if there is liability on the part of the carrier, it's computed and a claim is asserted against the carrier on behalf of the United States. If the claimant has private insurance, he first is supposed to file a claim against his insurer. However, the claims may be filed simultaneously. His claim against the insurer may be filed simultaneously with his against the Government. Our settlement, the Government settlement, would be held in abeyance until

the insurance claim is settled. Again, in cases of hardship, we will pay the claim and we, the United States, would proceed against the insurance company as a subrogee.

Senator GRASSLEY. Has there been any study made as to how many days all that might take? And am I interrupting you?

General BRUTON. No, sir. Seven days is about average for the Air Force. We processed claims of this nature in about 7 days during fiscal year 1981. We do try to process them all promptly, as promptly as possible. As I mentioned before, we have delegated settlement authority to the bases for $5,000 or if it's a general court martial level type base, it's $7,500.

Senator GRASSLEY. Is it fair to assume that the process is about the same for all branches of the service as well as the amount of time that it might take? Any of you or all of you?

Captain EOFF. There are different payment authorities in the Navy, sir. We can pay; that is some offices in the field can, up to the $15,000 limit. The only time they come to Washington is on reconsideration. Our naval legal services offices have up to the $15,000 authority in the field.

Senator GRASSLEY. Are they pretty tough on claims, do you feel?

Captain EOFF. Some of the adjudicators in the field, I think, consider it their own money and are very tough. I think fair, but still tough. They make the claimant file the required documentation and that sort of thing.

Senator GRASSLEY. Major Lister?

Major LISTER. The Marine Corps is totally centralized. We pay all the Marine Corps claims from here in Washington. However, what we do is we have what I consider a fairly efficient system for emergency payments, so if somebody's in the field and they call in and they say, "Hey, my ship just sank on the way to Iceland," which just happened about a month ago, we send them an emergency generally immediately, the next day. Then we complete the adjudication of the claim within a week or two, depending on how intricate it is.

Senator GRASSLEY. Colonel Mounts?

Colonel MOUNTS. We're similar to the Navy. We have many commands that can pay up to $15,000. We also have an emphasis on the hardship-nature claims and make sure that emergency payments are made within 24 hours, if at all possible.

One other thing that I might interject concerning the system as far as insurance coverage, if I might, sir.

Senator GRASSLEY. Yes, please.

Colonel MOUNTS. We have, particularly in the Army, a very short time in going from base to base in terms of change of permanent station. It's very difficult for the average soldier to have an appraisal when going overseas or coming back from overseas so the idea of trying to appraise the actual value of all of his household goods or her household goods and being able to then determine whether insurance should be taken out or what the adequate coverage should be, imposes an additional burden at a time when the Army and the Department of Defense are expecting an individual to be prepared for training immediately. This is, particularly true in Europe, where soldiers are sometimes expected to be within a training area within 24 hours. So there is really no period for

detached reflection for the average serviceman to be able to make these decisions concerning this and it's difficult for them. In addition, of course, as the general has emphasized, there is no real adequate private insurance coverage available. But if there were adequate coverage under the act that would be an additional inducement to be in the armed services.

Senator GRASSLEY. Major Lister, how many claims were there over $15,000 on that recent sinking?

Major LISTER. In fiscal year 1981, sir, there were only two adjudicated over $15,000.

Oh, do you mean the Iceland sinking?

Senator GRASSLEY. Yes.

Major LISTER. The Marine Corps only had one. I believe there were several from the Navy.

Captain EOFF. We had 12 Navy families lose their property in that incident. Eight claims were over $15,000 and they exceeded that amount in adjudicated value. We could only pay $15,000.

Senator GRASSLEY. It isn't the purpose of this hearing to inquire into the uniformity or lack of uniformity regarding the way the different branches of the military might handle the claims, but as we have heard, some are handled in the field and others here in Washington. Let me ask you, General, has there been any review of that to see if there is justification for the different ways that the different branches handle it, and if there is a justification, then obviously that answers the question. If it would be better that there would be some uniformity, then is that being studied?

General BRUTON. Well, sir, we do have considerable uniformity in that we all conform to the statute in some manner. The services use the uniform allowance list and depreciation guide in depreciating claims. However, peculiar procedural differences are actually de minimus. They generally depend on the level of the decisionmaker and each service happens to have its own type of procedure in that regard. I think you'll find that as far as actual adjudication and payment, which of course is the ultimate answer as far as the individual is concerned, they're fairly uniform.

Senator GRASSLEY. Fine. General, do you have any figures on how much it would have cost us in fiscal years 1980 and 1981 if the limits had been set at, say, $20,000 or perhaps $25,000 or even $30,000?

General BRUTON. Yes, sir, I do have some cost data concerning Air Force claims for over $15,000. In fiscal year 1980 the Air Force had 16 claims in which the adjudicated amount exceeded $15,000. We would have paid an additional amount of $74,000 if the limit had been $20,000; $100,413, if the limit had been $25,000. We would have paid $109,242 if the limit had been $30,000.

Now looking at fiscal year 1981, if the limit had been $20,000, we would have paid an additional $103,000, approximately. If it had been $25,000 we would have paid about $165,000. And if the limit had been $30,000 we would have paid about $186,500. Now, those figures represent only the Air Force experience, but I believe perhaps it might be fairly uniform throughout—for the other services.

I think the conclusion, if there's one to be made, is that the cost of this legislation does not significantly increase once you go past the $20,000 increase, but here, and this is where the morale impact

comes in, the real and perceived benefit of an increase to $25,000 or even $30,000 certainly is as large as the cost is modest.

Senator GRASSLEY. I think that Congress has demonstrated its interest in the servicemen's welfare through the recent pay increase. Do you have any idea, General, or any of you at the table, how this legislation might affect morale in the military services today? Of course, I don't ask you or invite you to overstate the case. I imagine that one does not consider insurance coverage until one needs it, but if insurance does affect morale, I'd like to have you express it for the record.

General BRUTON. Sir, I think you've put your finger on it. No one ever expects a catastrophe or doesn't necessarily think he will have one. I guess we're all optimists in that respect, but we do worry to some degree, I suppose, about the possibility that we might experience some small catastrophe and we hope it will be small. But then I think that from a morale standpoint that worry, if it is that, is heightened every time someone hears about someone who has suffered one of these catastrophic losses, and then wasn't able to be fairly compensated.

If we can't take care of our people under these circumstances, I think morale does suffer, although it's certainly not quantifiable. But if our people know that there is adequate protection when that happens, the impact on the morale of our career people will be very positive, I believe. I believe this increase is more than peace-of-mind insurance. That's sort of a neutral term, perhaps. I think, really, that positive benefits are tangible to our troops in the morale arena. It's very important.

Senator GRASSLEY. General, or other witnesses at the table, I'd like to have you, even though you've touched on it a little bit, once more state for the record your view of why we should offer coverage through government insurance as opposed to private sector insurance. I want to emphasize that my general philosophical belief is that whenever we can utilize the private sector we should. Of course, that's one of the goals of this administration, not only within our own country but even to the extent of encouraging underdeveloped nations of the world to do that as a substitute for reliance upon foreign aid from the U.S. Government.

So, if you would, as precisely as you can, I'd appreciate hearing your thoughts on that topic once again.

General BRUTON. First, I think private insurance is not available at a reasonable cost. Second, Congress has already undertaken a program to insure these type of losses, and this is merely an increase to keep up with what Congress has already done. Therefore, again, in the morale area, it certainly would have a positive impact as far as morale is concerned.

Senator GRASSLEY. Has there been any study done by the Air Force or any of the other branches on private insurance filling the present void?

General BRUTON. Yes, sir. We have some information on that. We've looked into the availability of private insurance. There are two companies which do insure military personnel almost exclusively, and they do provide coverage, but only for lost or destroyed property, not damaged property. These policies covering loss but not damage are obviously inadequate, because substantial claims

often arise just for damages, caused by fire, for instance, smoke, flood, mildew, rodent infestation, and moving van accidents. These are two companies that the military ordinarily insures with.

There are two other companies that will write all-risk policies, but the premiums quoted for those transient policies range from $500 to $750 for $25,000 worth of coverage. The premiums for these all-risk coverages are more than almost anybody's willing to pay, I believe. For enlisted personnel and junior officers, I think we'd find that that is more than most are even able to pay.

Now, there is a pilot program. One insurance company has a $15,000 deductible policy available for the shipment of household goods, but it only covers the Army and Air Force Exchange Service. It is not available to all of the DOD. This program extends to about 400 moves a year and the premium for $25,000 coverage with a $15,000 deductible is $34 for each move in the United States and $50 for each move overseas.

Now, if this pilot program were made available at the same rates to us in the military, it's possible to make a guess at projecting the cost of the program to DOD members. In fiscal year 1980 we had about 1.2 million permanent change of station moves in the Department of Defense, and based on the premiums presently charged with the pilot exchange service program, if all of these moves had been privately insured for the full $25,000 coverage, the total cost to Department of Defense members in fiscal year 1980 would have exceeded $50 million for coverage on depreciated value.

Now, obviously this wouldn't have happened totally because not all these moves would have involved property over $15,000. Therefore, insurance would not necessarily have been purchased in all such cases. But, if you look at the married personnel who did move, we had 192,000 married personnel who moved overseas and about 228,000 married personnel who moved in the States. Considering these moves and assuming that each of these people insured their goods for $25,000, the total cost of this insurance would have been $17.4 million.

Now, in contrast to this, during the same fiscal year, 1980, only 82 personnel claims were adjudicated in excess of the present $15,000 limit in the Department of Defense. So, if the statutory limit had been $25,000 the cost of compensating these claimants would have been $512,000.

So, I think there is a definite cost benefit there.

Also, there's a program in the form of a government bill of lading which releases the property at a higher value. However, the increased value of this government bill of lading is only available domestically, not for overseas, and it's even more expensive than the pilot insurance program I described above. It costs about $5 per thousand of value, and it also has a number of exclusions which would make it not so attractive as full protection would.

Senator GRASSLEY. Say that private insurance did exist, have you considered the presumption of whether or not the individual service person would pay for it as opposed to the Government or it would be a combination of both service personnel as well as the Government paying for this private sector insurance?

General BRUTON. I think the real problem, perhaps, is what Colonel Mounts laid out, the fact that I think maybe the individ-

uals that need it most may not take advantage of it. But now as to whether there could be a cost sharing, or should be, we have not specifically looked into that, sir.

Senator GRASSLEY. Well, you know, with the servicemen's group life insurance, that's paid partly by the individual service person as well as the Government, and of course, if we aren't considering this alternative, then it's needless to make the argument. But I just was wondering if within the administration or within the Defense Department there'd been any thought given to that.

If there hasn't, then that's an adequate answer as well.

Go ahead, Colonel.

Colonel SEMETA. Sir, basically the present act covers only losses and damage to personal property. We could not compensate the individual for the insurance cost.

Senator GRASSLEY. Thank you.

Do any of you have any further statements? Those are all the questions I have.

If not, then before you leave, in addition to my thanking you for your fine testimony and thanking you as well as the administration for their support of the concepts embodied in this legislation, I want to say that there may be other members of the committee who couldn't be here today who may have questions they want to submit in writing. If you would respond to those in writing it would be much appreciated by me as well as by my colleagues. Thank you all very much for your kind attention.

General BRUTON. Thank you, sir.

[The prepared statement and responses of General Bruton to questions of Senators Grassley and Laxalt follow:]

Prepared Statement of Maj. Gen. Thomas B. Bruton

Mr. Chairman, members of the Committee, I am Major General Thomas B. Bruton, The Judge Advocate General, United States Air Force. I appreciate and thank you for the opportunity to appear before you to present the views of the Department of Defense in support of S.1739 to raise the maximum under the Military Personnel and Civilian Employees' Claims Act from $15,000 to $25,000.

The present ceiling of $15,000 payable under the Military Personnel and Civilian Employees' Claims Act of 1964 for personal property losses incident to service is inadequate. We have a problem. We need a solution.

We believe now, as we believed last year, that the increase from $15,000 to at least $25,000 is absolutely necessary to maintain an adequate level of protection for our people. This increase is needed to keep up with the rising costs of replacement and repair of personal property lost or damaged incident to the service of military personnel and federal civilian employees. The present protection is inadequate due to inflation. Based on several reliable measurements, the increase to $25,000 is fair and reasonable.

a. Inflation has significantly reduced the value of the $15,000 maximum. This can be dramatically shown by use of the Consumer Price Index (CPI) in calculating the increased cost of repair and replacement of personal property. In May 1964, when the payment limit under the Act was $10,000, the CPI, according to the United States Bureau of Labor Statistics, was 92.7. In October 1974, when the payment limit under the Act was increased to $15,000, the CPI was 153.0. In January 1981, the CPI-U (Consumer Price Index for all Urban Consumers) was 260.5, a 70.3 percent increase since October 1974. The payment limit of $15,000 in January 1981 is equivalent to $8,810 in October 1974 purchasing power. An increase in the payment limit to $25,539 would be needed to match the October 1974 purchasing power of $15,000 in January 1981.

b. A "rule of thumb" used by the insurance industry to measure

adequacy of coverage to protect shipment of household goods is based on total weight of goods multiplied by $3.00 per pound. The uniform weight allowances prescribed by Joint Travel Regulations, when multiplied by $3.00 per pound, show, for example, an E-5's household goods could reasonably be valued at $21,000. Under this measurement the property of the top three enlisted grades and all officers would not be covered fully even by $25,000.

c. Using another measurement, the standard homeowner's policy written by the insurance industry sets coverage for contents of a home at 50 percent of the insured value of the home. According to the Public Information Office of the National Association of Realtors, the average cost of a home in the United States was $80,700 in August 1981. Even at an average cost of $50,000, a maximum compensation figure of $25,000 would be consistent with this measurement.

The practice of Congress over the past 26 years has recognized the need to maintain a relatively constant level of protection by periodically raising the maximum payable under the Act from $6,500 to $10,000 in 1964 and from $10,000 to $15,000 in 1974.

It is our view that requiring military members and civilian employees to protect themselves against losses of property incident to the hazards of their federal service is inequitable. In addition, obtaining adequate protection poses many practical problems.

One possibility is private insurance. Military personnel and civilian employees could, of course, purchase commercial insurance policies to cover losses and damage to household goods occasioned by moves required by the government. The Air Force has looked into the availability and cost of such policies and found that commercial insurance is not an acceptable option because (1) transit commercial coverage is generally not available and (2) when it is, the coverage is inadequate and the cost high.

Two companies which insure military personnel almost exclusively provide coverage only for lost and destroyed property. They will not cover damage to property. The policies covering loss but not damage are clearly inadequate. Substantial claims often arise for damages

caused by events such as fire, flood and resulting mildew, rodent infestation and moving van accidents. Two other companies will write an "all risks" policy, but the premiums quoted for such transit policies ranged from $500 to $750 for $25,000 coverage. The premiums for "all risks" coverage are more than most anyone is willing to pay. For enlisted personnel and junior officers, they are more than most are able to pay.

As a pilot program, one insurance company has a $15,000 deductible policy available for shipment of household goods. It only covers Army and Air Force Exchange Service (AAFES) personnel. This program extends to approximately 400 moves a year. Under this pilot program, the premium for $25,000 coverage (with $15,000 deductible) is $34 for each move in the United States and $50 for each move overseas, when coverage is based on cash or depreciated value. If coverage is based on replacement value, the premiums are $96.50 for each move in the United States and $112.50 for each move overseas. If this pilot program were to be made available by the insurer at the same rates to all military personnel, it is possible to project the cost of such a program to DOD members. In FY 1980, about 1.2 million permanent change of station moves occurred in DOD. Based on the premiums presently charged under the pilot AAFES program, if all these moves had been privately insured for the full $25,000 coverage, the total cost to DOD members in FY 1980 would have exceeded $50 million for coverage based on depreciated value.

Realistically, this full cost would not have been incurred because not all of these moves would have involved property valued in excess of $15,000, and consequently, insurance would not have been purchased in all cases. It is not possible to establish with any certainty the number of moves that did involve property valued at more than $15,000. However, of the 1.2 million moves, about 192,000 involved married personnel on overseas assignment and about 228,000 involved married personnel moving in the United States. Considering only these moves by married personnel and assuming that each of the married personnel insured their goods for $25,000, the total cost of this private insurance would have been almost $17.4 million. In contrast to this, during FY 1980 only 82 personnel

claims were adjudicated in excess of the present limit of $15,000 within DOD. If the statutory limit had been $25,000, the additional cost of compensating these claimants would have been $512,000.

Protection somewhat comparable to this pilot program can also be obtained in the form of a Government Bill of Lading (GBL) releasing the property at a higher value than normal. However, the increased value GBL is only available domestically and is even more expensive than insurance under the pilot program. Its cost is $5.00 per $1,000 of value. Additionally, this added protection has a number of exclusions which make it far less than full protection.

Whether we are talking about the pilot program or an increased value GBL, when the tremendous difference in total premium cost for married DOD personnel is compared to what it would cost to the government to raise the statutory protection to the $25,000 level, it becomes clear that the government can provide this additional protection at a very low cost. While our FY 1981 figures are not yet complete, if our FY 1982 experience is about the same as FY 1980, then the estimated cost for all of the Department of Defense for FY 1982 would be around $500,000.

Another problem with commercial insurance is slow payment. Prompt, fair and efficient claim services are indispensable to our people, especially our lower grade enlisted personnel who are often short of cash. The Air Force alone has 137 claims offices all over the globe. We in the military services believe we have established a record of responsible and prompt administration of claims.

In implementing the statutory mandate that the quality and types of property lost be "reasonable, useful or proper under the circumstances," the services have jointly adopted maximum amounts payable for jewelry, antiques, stereos, collections, paintings, and other valuable items. In other words, we do not underwrite or compensate extravagant taste. Due care is required of military and civilian members in safeguarding their personal effects. Depreciation consistent with insurance industry standards reduces the amounts payable for items claimed. Substantiation of claims is an absolute requirement. All military services have trained legal

personnel who investigate and adjudicate these claims. Air Force Manual 112-1, which is typical of Executive Branch regulations implementing this Act, includes tables of maximum payments and depreciation. Copies of these tables have been provided to the Subcommittee staff for your review. If the present $15,000 maximum is increased, I assure you that the same high standard of administration will be maintained.

Raising the limit to $25,000 would only maintain the level of protection previously considered appropriate by the Congress for the type of property covered by the Military Personnel and Civilian Employees' Claims Act. With respect to the philosophy of the Act, nothing has changed since the last increase in the payment ceiling seven years ago. The House Judiciary Committee Report at the time of the 1974 increase (House Report 93-1320, August 22, 1974, page 3) states that the increase would "serve to maintain the level of protection that was previously considered appropriate for this property by Congress as a matter of fairness, support for morale, of government personnel. As to the Armed Forces, such protection would be a further inducement for entering and continuing membership in the Armed Forces." I am confident that any family would prefer to have its furnishings delivered intact after a move. To require Defense Department personnel to risk losses of their property incident to their service without adequate protection is inequitable. We believe it is important that members of the Armed Forces have a guarantee of reasonable recompense for losses suffered as a result of government-ordered moves.

The impact of inflation is not unique to this country. An exchange officer from the Royal Australian Air Force who is presently assigned to my office advises that Australia recently faced the same issue. In November 1980, the maximum limit for payment for losses to personal property was increased from $15,000 to $25,000 (in Australian dollars). The issue that triggered the increase there was the inadequacy of the coverage due to inflation in repair and replacement costs.

I am not going to dwell on private relief bills as a possible remedy except to note what you know better than I, that they are not often favorably considered. Among the reasons is that such legislation is preferential and, therefore, inherently unfair. Additionally, Section 4 of the Military Personnel and Civilian Employees' Claims Act provides that "the settlement of a claim under this Act is final and conclusive." Thus, private relief legislation is contrary to the philosophy of the Act. We believe the solution is amendment of the Act to increase the ceiling from $15,000 to at least $25,000. The Department of Defense strongly supports S. 1739.

This concludes my statement. I am prepared to answer your questions.

RESPONSES OF GENERAL BRUTON TO QUESTIONS OF SENATOR GRASSLEY

Senator GRASSLEY. Could you provide the most current information regarding increases in the Consumer Price Index?

General BRUTON. The most current CPI for all urban consumers, CPI-U, published by the U.S. Bureau of Labor Statistics (BLS), for the month of September 1981 is 279.3. The sum of $27,382 would be required today to equal the purchasing power of $15,000 in October 1974 dollars.

The following chart graphically illustrates the CPI-U computations.

CPI-U

	October 1974	January 1981	September 1981
Index	153.0	260.5	279.3
Percent increase since October 1974	0	70.3	82.5
Value of $15,000 in October 1974 purchasing power	$15,000	$8,810	$8,217
Amount needed to equal $15,000	15,000	25,539	27,382

Senator GRASSLEY. Would you include information which excludes housing and energy costs?

General BRUTON. The CPI-U less energy and housing was 150.2 in October 1974. The most current statistics from BLS indicate that CPI-U less energy and housing is 247.7 in September, a 64.9-percent increase since October 1974. Using these calculations, $15,000 in September 1981 was equivalent to $9,095 in October 1974 purchasing power. To match that purchasing power in September 1981 dollars, $24,737 would be needed.

Again, the chart below summarizes these computations.

CPI-U (LESS ENERGY AND HOUSING)

	October 1974	January 1981	September 1981
Index	150.2	232.4	247.7
Percent increase since October 1974	0	54.7	64.9
Value of $15,000 in October 1974 purchasing power	$15,000	$9,694	$9,095
Amount needed to equal $15,000	15,000	23,209	24,737

Senator GRASSLEY. Would you provide information for fiscal year 1981 regarding the total number of household claims received, the percent paid, and details of the claims over $15,000?

General BRUTON. The total number of claims paid and closed approved, disapproved, withdrawn or otherwise disposed of during fiscal year 1981 by the Services are set forth below.

MILITARY PERSONNEL AND CIVILIAN EMPLOYEE'S CLAIMS ACT FISCAL YEAR 1981

	Closed	Paid	Percent
Air Force	60,803	55,944	92.01
Army	86,118	79,863	92.74
Marine Corps	6,515	6,059	93.00

General BRUTON. The Navy was not included in the tabulation because it does not maintain the statistics on the number of claims closed. Still, the average of the percentage of household goods claims paid by the three services is about 92.6 percent.

In regard to the second portion of your question, during fiscal year 1981, 82 personnel claims were adjudicated in excess of $15,000 within the Department of Defense.

The details as to what caused these losses and resulting claims are summarized on the following chart:

MILITARY PERSONNEL AND CIVILIAN EMPLOYEES' CLAIMS ACT IN EXCESS OF $15,000—FISCAL YEAR 1981

	Air Force	Army	Navy	Marine Corps
Warehouse fires	15	2	7	
Quarters fires	6	3		
Van fires	6	2		
Theft from carrier	2	1		1
Ship sinking	1	1	9	1
Assorted accidents	1	4		
Extensive transit loss/damage	5	4	11	
Totals	36	17	27	2

Senator GRASSLEY. What was the total amount of claims paid out in fiscal year 1981? If you have similar information for earlier years, please submit that information.

General BRUTON. The Department of Defense paid out under the Military Personnel and Civilian Employees' Claims Act close to 180 thousand claims worth about $81 million.

The following tables show transit, nontransit and the total number of claims and dollars spent in fiscal years 1980 and 1981 under the act.

MILITARY PERSONNEL AND CIVILIAN EMPLOYEES' CLAIMS ACT FISCAL YEAR 1981

	Transit claims	Nontransit claims	Total claims	Total dollars paid
Air Force	45,669	10,275	55,944	24,860,151
Army	56,168	23,695	79,863	37,145,992
Navy	29,254	8,215	37,469	16,332,083
Marine Corps	4,295	1,764	6,059	2,449,246
Total DOD	135,386	43,949	179,335	80,787,472

MILITARY PERSONNEL AND CIVILIAN EMPLOYEES' CLAIMS ACT FISCAL YEAR 1980

	Transit claims	Nontransit claims	Total claims	Total dollars paid
Air Force	52,651	15,525	68,176	26,659,919
Army	58,367	24,661	83,028	37,097,099
Navy	(1)	(1)	42,564	19,450,379
Marine Corps	5,765	1,694	7,459	2,771,106
Total DOD	116,783	41,880	201,227	85,978,503

[1] Not available.

Note. The Navy did not separate their claims statistics by transit and nontransit damage for fiscal year 1980.

RESPONSES OF GENERAL BRUTON TO QUESTIONS OF SENATOR LAXALT

Senator LAXALT. In fiscal year 1980, what was the total amount paid by the United States government under the Military Personnel and Civilian Employees' Claims Act of 1964?

General BRUTON. I can only provide you with the information pertaining to the Department of Defense. The total amount paid under the Act in fiscal year 1980 by DOD was $85,978,503.

Senator LAXALT. What is the estimate of the cost of premiums which would have provided comparable coverage through private insurance carriers?

General BRUTON. The premiums quoted an "all risk" policy for a $15,000 coverage ranged from $300 to $450. According to Lloyd's of London such coverage would cost $300 for international and $367 for domestic shipments. The other insurer, Security Storage Company of Washington, cited $450 premium cost for similar coverage on international shipments. It does not currently provide domestic transit insurance. Taking the average premium cost ($375) of such insurance and assuming that all permanent change of station moves were privately insured for the full $15,000 we project the total cost to DOD members for fiscal year 1980 at $450 million ($375 x 1.3 million moves). Again, if married DOD personnel procured such coverage the total cost to them would have exceeded $157 million ($375 x 420,000). In contrast to this, if the statutory limit would have been $25,000, it would have cost the government, as I have stated before, an additional $512,000 in fiscal year 1980 to compensate the claimants up to that amount.

Senator LAXALT. What is the average claim payment time for private carriers versus the claim payment time by the United States government working under this Act?

General BRUTON. The two companies that cater exclusively to the military personnel advise that the average processing time for processing personnel type claims ranges from 7 (Armed Forces Cooperative Insuring Association) to 37 (United Services Automobile Association) days. The Chubb Company, presently having a pilot program with AAFES, cited two weeks as an average processing time. On the other hand, Security Storage Company of Washington indicated that their average processing time ranged from 30 to 45 days. In the Air Force, we processed these claims on an average of seven days during fiscal year 1981.

Senator GRASSLEY. I would now like to call to the witness table Rear Admiral Daniels. I understand that Admiral Daniels is presently Chief Counsel at Coast Guard Headquarters here in Washington. Your honors, Admiral, include Coast Guard Expert Pistol Medal, the National Defense Service Medal with Bronze Star, the Arctic Service Ribbon, the Coast Guard Unit Citation, and the Coast Guard Commendation Ribbon, not to mention being inducted in the Coast Guard Academy Athletic Hall of Fame.

Accompanying you, I understand, is Comdr. Richard Beaver, Chief of Claims.

We are very pleased that you could be with us today and I should tell you that your entire statement will be placed in the record, as it was with the previous panel, and if you'd like to

summarize that statement and give us your highlights of it, that would be appreciated.

STATEMENT OF REAR ADM. EDWIN H. DANIELS, CHIEF COUNSEL, U.S. COAST GUARD, ACCOMPANIED BY COMDR. RICHARD J. BEAVER, USCGM, CHIEF OF CLAIMS, OFFICE OF JUDGE ADVOCATE GENERAL

Admiral DANIELS. Thank you, Mr. Chairman. I will summarize. I think that we've gone over a lot of ground.

The damages of this magnitude, those that are over the $15,000, I think are the real key to it. They are most likely to occur when a member's personal belongings and household are substantially or totally lost, either in government-provided quarters or while being shipped incident to a change in duty assignment. The personal loss to the member and his family is upsetting when the replacement is possible, but the loss becomes catastrophic when the member cannot recover the depreciated value of his possessions, up to $25,000.

In the Coast Guard, obviously, we don't have as many moves as they do in the Department of Defense, but we had 14,874 moves last year, the 1981 fiscal year, and of that we had 2,189 claims, which is an average claim of about $370. Of those, only four were over the $15,000 amount. Since there were so few, I thought it might be benefical to sort of mention these. One was for $35,652 loss in a quarters fire and there was no coverage, no insurance. It just all came from the Government. And it was limited to $15,000. So obviously, the man in that case lost $20,652.

The next one was a $70,492 loss. This was a moving van, total destruction by fire, and after collecting from the carrier and from insurance of the United Services Automobile Association, still the man lost $10,000.

The next case was a $23,828 claim and this was a moving van also, and the man lost, after insurance and the carrier, $8,828.

The last case was a $19,633 case from a moving van and the man lost $5,833.

Senator GRASSLEY. Thank you very much.

I should have asked the previous panel, and perhaps you can respond to this question, do we know the total amount paid out, under existing law? We talked about what the increase in the limit would cost the Government. They referred to $74,000 at one point.

Admiral DANIELS. Yes, sir. We paid out, in fiscal 1981, $816,000 roughly.

Senator GRASSLEY. That's the Coast Guard only?

Admiral DANIELS. Yes, sir, and that was an average claim of $370 of the total claims. These claims are about 85-percent moving claims in the Coast Guard, but they occur in the barracks when property's stolen; if there's negligence, the man gets nothing, if he's negligent. In other words, it has to be a legitimate claim based on merit, in that respect.

Senator GRASSLEY. I understand that a bill has been introduced in the House raising this limit to $20,000. Could I have your views, Admiral, as to whether this is adequate compensation?

Admiral DANIELS. I would say that the real problem here is the high limit. When a man has a catastrophic loss he's the one that

needs the $25,000. The $20,000 would help, obviously, but the $25,000 would get almost every case that we had here. Taking into consideration the insurance, we would have had one man who would still have been out $10,000 with the $25,000 increase and the other man would have broken even.

Senator GRASSLEY. About how many claims does the Coast Guard handle each year?

Admiral DANIELS. We had 2,189 last year, I would say, about an average of 2,000.

Senator GRASSLEY. Fine.

Have you any figures on how much more would have been expended in fiscal year 1981 had the $25,000 limit been in effect? That's similar to the question I asked the Air Force.

Admiral DANIELS. I think we probably would have expended about $45,000. Commander Beaver says $28,828.

Senator GRASSLEY. Would you give us some idea of your claims process and also in answering your question, tell us about what percentage of the claims are settled.

Admiral DANIELS. The process is about as General Bruton stated the DOD process. We have a $15,000 limit delegated to the field so the district commanders can process claims. It speeds up the process and I don't think delegation causes any less quality.

The time is about 5 weeks, though. We have to investigate to see whether or not the claim should be paid and it takes time to do this. If there is an emergency, obviously we can expedite it, and that has been done. Where we had the man that lost $70,000, obviously we processed it right away.

Senator GRASSLEY. That 5 weeks compares to about 7 days that the previous service, that the Air Force, had suggested; right?

Admiral DANIELS. Yes.

Senator GRASSLEY. What about the person who lost, I think it was $70,000?

Admiral DANIELS. Yes, sir. That was a van that was destroyed on the way to the Coast Guard Academy, en route, and so he lost everything. He had United Services automobile insurance and he also had a claim against the carrier. I think it's 60 cents a pound. After both he still lost $10,000, after he got the $15,000 from this act.

Senator GRASSLEY. Fine.

Admiral DANIELS. So the $25,000 would have hit him right on. It would have been just right for that.

Senator GRASSLEY. Did you answer the question on what percentage of claims have been settled or are settled?

Admiral DANIELS. I think they're all settled, pretty much. The problem is if there is evidence of negligence on the part of the claimant, then it won't be paid. But basically, otherwise, I would say they're pretty much settled 100 percent.

Senator GRASSLEY. Thank you. I have no further questions. Do you have anything else that you wish to add for the record?

Admiral DANIELS. You asked the question before about the benefits to the individual.

Senator GRASSLEY. Yes.

Admiral DANIELS. I think that one of the problems here, is that it's an involuntary move. Most of these claims are in moves but it's

an involuntary move on the part of the serviceman. Our experience with private insurance is you can have coverage a lot of times and they resist payment and so they don't pay promptly. Sometimes they don't pay at all, and the carriers are also very slow to pay, even when there's a legitimate claim. So this really drags it out and having the benefit of the government paying promptly and then going after the carrier and going after the insurance company is of great benefit to the serviceman, and I think it is a great morale factor.

Senator GRASSLEY. Are there any comparable negligence standards where the person that's involved in any way is culpable, that you take into consideration in the process?

Admiral DANIELS. The claim is investigated, when a man makes a claim. It's investigated and the investigating officer, if he finds, for example, that there was a larceny in the barracks, this happens frequently, if the man didn't keep his door locked, he probably won't get paid. If he had the door locked and if he had put the property away, he would probably get paid. This is a simple example.

Senator GRASSLEY. And I assume this process would be the same from service to service?

Admiral DANIELS. I should think so. Yes, sir. We use the same claims manual. It says—Commander Beaver just handed me the law itself—it says in one of the clauses "if it was not caused wholly or partly by the negligent or wrongful act of the claimant, his agent, or his employee." That's basically why we're doing it that way.

Senator GRASSLEY. I have no further questions. Thank you very much for your fine testimony and you might expect questions from other members as well, in writing.

Admiral DANIELS. Thank you, sir.

[The prepared statement of Rear Admiral Daniels follows:]

PREPARED STATEMENT OF REAR ADM. EDWIN DANIELS

The Coast Guard wholeheartedly supports the legislative proposal to increase the maximum payment under the Military Personnel and Civilian Employees' Claims Act of 1964 from $15,000 to $25,000. We believe this increase is necessary to provide the adequate level of protection for our people contemplated by the statue.

As you know, the purpose of the Military Personnel and Civilian Employees' Claims Act is to provide a basic measure of compensation for personal property lost or damaged incident to the service of military personnel and Federal civilian employees. The proposed increase to $25,000 merely corrects for inflation the $15,000 maximum established in 1974.

Damages of this magnitude are most likely to occur when a member's personal belongings and household goods are substantially or totally lost either in Government-provided quarters or while being shipped incident to a change in duty assignment. The personal loss to the member and his family is upsetting even when replacement is possible; the loss becomes catastrophic when the member cannot recover the depreciated value of his possessions up to $25,000. The Claims Act is not intended to fully cover all losses.

Passage of this proposal would truly be beneficial to the members and the service.

Senator GRASSLEY. It's now my pleasure to introduce Thomas Tracy. I understand that Mr. Tracy is Assistant Secretary for Administration of the State Department. You are a career foreign service officer who has served as Counsel for Administration Affairs at the American Embassy in Moscow as well as Bonn. I see

that you're accompanied by Joan Padilla, Chief of Claims at the Department of State.

As I told the other distinguished witnesses, your statement will be included in the record and if you will and desire, you can summarize. Thank you very much.

STATEMENT OF THOMAS M. TRACY, ASSISTANT SECRETARY FOR ADMINISTRATION, DEPARTMENT OF STATE, ACCOMPANIED BY JOAN PADILLA, CHIEF OF CLAIMS, OFFICE OF ASSISTANT SECRETARY FOR ADMINISTRATION

Mr. TRACY. Thank you, Mr. Chairman. I'm pleased to appear before you today in support of the Department of Defense proposal to amend the Military Personnel and Civilian Employees' Claims Act of 1964. The Department of State, the Agency for International Development, and the International Communications Agency support the proposal which would increase the ceiling on the authority of Federal agencies to settle claims from $15,000 to $25,000.

I might add, Mr. Chairman, that unlike the military agencies, many more of our moves are overseas. We have relatively few moves in State, AID, and USIA, in the United States. Most of our moves involve transfers either from the United States to other parts of the world or from one part of the world to another part.

So, our experience is that we find, particularly overseas, our loss rates are higher than they would be in the United States. The conditions in which we transfer our people are very difficult at times. We may literally transfer someone from Moscow to Peking and the quality of moving service is very low in most instances.

Thus we would support any move to increase this limit up from $15,000 to $25,000.

Senator GRASSLEY. Is that the end of your presentation?

Mr. TRACY. Thank you, yes, sir.

Senator GRASSLEY. We have some questions. How many claims did the State Department handle in fiscal year 1981 or any other recent years that you might have?

Mr. TRACY. In 1981 we handled about 2,600 and that includes State, AID, and ICA. We have joint regulations covering those three major foreign affairs agencies and the Department of State acts as the clearinghouse and provides the standardized regulations for the foreign affairs agencies.

Senator GRASSLEY. Excuse me, I missed the number.

Mr. TRACY. 2,600 in 1981.

Senator GRASSLEY. Thank you.

At one point we were considering only raising the claims amounts for the armed services, so again for the record, I'd like to have you state why we should continue to treat State Department civilians as a consolidated unit on this limit.

Mr. TRACY. I would point out that we both serve in many parts of the world together, in embassies or consulates overseas. We have the defense attachés and other representatives of the military, frequently military aid missions, as well as civilian employees. I think as a principle of equity we should try to treat all of our employees in the same way. We are subject to the same risks and the same hazards.

Senator GRASSLEY. Do you think that most foreign service officers carry appropriate insurance to cover their personal goods? Please also consider lower level civilian employees, who are as medium or above.

Mr. TRACY. The problem with private insurance is that there are a great many exclusions. I would agree with everything that I have heard this morning from the Defense Department and the Coast Guard; that is, the carriers, are very slow in settling claims. Moreover, there are a great many exclusions. It is almost impossible to get insurance which covers damage as opposed to total loss.

We urge our employees to carry commercial insurance and many of them do. Nevertheless, we still have a fair number of claims which we have to process. Particularly overseas it's very difficult at times to decide who is responsible. The household effects may transit a dozen countries. It may be partially by rail, into storehouses and then to ships. So, it becomes very difficult to assess the liability. We are operating under the laws of many countries.

I think it's important that as the Defense Department has pointed out, to understand that the U.S. Government, when it settles a claim, can then claim against the carriers or shippers. However, for the individual who has lost all of his goods and if this claim system didn't work it would mean he might be out thousands of dollars for a good number of years.

Senator GRASSLEY. Are you unable to give me any specific percentage or numbers as to the people who might carry insurance and particularly lower level government employees?

Mr. TRACY. As you'd expect, Mr. Chairman, the majority of insurance is carried by the higher grade personnel rather than the lower grade. We estimate that perhaps a third to a half of our higher grade personnel carry this insurance already.

Senator GRASSLEY. OK.

Mr. TRACY. Even with that insurance, as was pointed out by the Coast Guard, you still have losses which the insurance will not cover.

Senator GRASSLEY. About how long does it take for civilians to get reimbursed for his or her losses from start to finish?

Mr. TRACY. We average 4 or 5 days. We are centralized in Washington. We handle much of the work telegraphically through our posts. The investigating officer is the administrative officer at a post. Obviously, there's some variation at times when there's a question of where the damage occurred.

Senator GRASSLEY. It seems to me that that's a pretty good record. If you can do that on an average of 4 to 5 days that's good.

Mr. TRACY. Yes, sir.

Senator GRASSLEY. Administratively, in the processing of the claims, in that 4 or 5 days, does one person make that determination or is there a variety of administrative levels that are involved in making the final determination?

Mr. TRACY. Perhaps I could give you a typical example. Let's say that goods are shipped to Moscow and for whatever reason damage occurs in the shipment to Moscow. The administrative officer investigates that claim and makes a determination of fact. That information is sent telegraphically to Washington. The claims office in Washington reviews the material under our regulations and deter-

mines the amount. Then a check is processed through Treasury to the individual.

I'd have to admit in the case of Moscow I doubt if the check gets out there in 4 or 5 days, but the processing is completed in that timeframe.

Senator GRASSLEY. I have no further questions. I would like to suggest to you, as I have to the others, that there may be other members that have questions who will want to ask them, and that would be in writing, naturally. I want to thank you for your appearance here as the last panel of witnesses and for that matter, thank all of you that appeared here today.

[The prepared statement of Mr. Tracy follows:]

PREPARED STATEMENT OF THOMAS M. TRACY

Mr. Chairman and Members of the Subcommittee, I am pleased to appear before you in support of the Department of Defense proposal to amend the Military Personnel and Civilian Employees' Claims Act of 1964. The Department of State, Agency for International Development and the International Communication Agency, support the proposal which would increase the ceiling on the authority of federal agencies to settle claims from $15,000 to $25,000.

Raising the limit would serve to maintain the level of protection that was previously considered appropriate by the Congress. In 1974, the ceiling was increased to $15,000. An increase in the payment limit to $25,000 is now needed to match the 1974 purchasing power of $15,000.

When the authority to reimburse employees for personal property losses was granted to civilian agencies over 16 years ago, it was agreed among the three largest foreign affairs agencies State, AID and ICA (then USIA)—that the claims program should be administered in such a manner that the employees of those agencies would be treated equally. Hence, we have join regulations which govern the adjusdication of claims by all employees of State, AID and ICA. Further, to avoid any possible differences in interpreting and applying these regulations at the posts where our employees are assigned, it was agreed that all claims would be processed and adjudicated at a central office in the Department of State.

During the period June 1980 through May 1981, claims in excess of $15,000 were 2.5 percent of all claims by employees of State, AID and ICA. Of the 18 claims adjudicated over the $15,000 level, only one claim would not be covered by an increase of the maximum to $25,000.

I would like to digress for a moment to emphasize that the Department believes employees themselves have responsibilities. The Department stresses that the Government does not insure their household goods. The Department strongly urges all employees to arrange for private insurance on all vehicle and household effects shipments as well as those effects placed in storage. Establishing responsibility for lost or damaged effects, especially on export surface shipments and unaccompanied air baggage, is usually a difficult task. Even where responsibilities are established, it is often difficult to determine the cause or causes of loss or damage and consequently the extent of the company's liability. For these reasons, as well as the fact that the Claims Act is not intended to fully cover all losses, employees are urged to buy commercial insurance to meet both their general and unique needs.

In conclusion, Mr. Chairman, your personal interest and the interest of other members of the Subcommittee in the claims issue is appreciated by the employees of the Foreign Affairs agencies. I would like to submit for the record the State-AID/ICA regulations governing "Transportation Guide" which is designed to assist employees in the planning and preparation for the transportation of their personal possessions between posts of assignment. I would be pleased to answer any questions you may have.

Senator GRASSLEY. I think that we have, through the testimony and questions, formed a valuable record that does depict the need for the proposed legislation. This hearing is adjourned.

[Whereupon, at 10:29 a.m., the subcommittee was adjourned, to reconvene at the call of the Chair.]

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